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10/029,921	12/27/2001	Scrivas Gutta	US 010633	5911
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EXAMINER				
SHAW, PELING ANDY				
ART UNIT		PAPER NUMBER		
2144				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/029,921

Applicant(s)

GUTTA ET AL.

Examiner

PELING A. SHAW

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SD/CS)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. In view of the Appeal Brief Filed and Amendment dated 02/21/2008, PROSECUTION IS HEREBY REOPENED. New grounds of rejection, i.e. claims 23-24 are rejections under 35 U.S.C. 101. Claims 1-28 are currently pending.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

2. Amendment received on 03/12/2007 was entered into record. Claims 1, 12, 23-24 and 28 were amended.
3. Applicant's submission filed on 08/30/2006 was entered. Claims 1-2, 4-6, 8-9, 12-13, 15-17, 19-20 and 23-26 were amended. Claims 27-28 were new.
4. Amendment received on 03/03/2006 was entered. No claim was amended.

Priority

5. This application has no priority claim made. The filing date is 12/27/2001.

Claim Rejections - 35 USC § 101 Utility

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 23-24 and 27-28 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

- a. Claim 23 recites the limitations of “An article of manufacture for ...” and “... a computer readable medium having computer readable code means embodied thereon ...” that is not clearly defined in applicant’s original specification or claim set. Applicant’s mapping of claim 23 in section 4 (Summary of the Claimed Subject Matter) of Appeal Brief Filed dated 02/21/2008 does not provide a clear mapping of the limitations above. The closest description related to these limitations is in claim 12, i.e. “a memory for storing computer readable code”. However, claim 12 is on a system. Claim 23 seems to intend for “a storage media having computer readable code, when executed by a processor ...” A computer readable medium is a broader language that could be interpreted as a carrier medium as well as memory medium per applicant’s claim 12. Thus these limitation could be interpreted as not a machine or a manufacture within the meaning of 35 USC 101, and it's clearly not a series of steps or acts so as to be a process or combination of two or more substances so as to be a composition of matter, it fails to fall within a statutory category. Since the claim is not clearly limited to embodiments eligible for patent protection, it is being rejected as non-statutory as could be directed not to a patent-eligible machine, manufacture, process or composition of matter. Claim 23 and its dependent 27 are thus rejected.

For the purpose of applying art, the limitations are read as “An article of manufacture for ...” and “... a computer readable storage medium having computer readable code means embodied thereon ...” If claim 23 is allowed, applicant is required to update the specification to include description on these limitations.

- b. Claim 24 recites the limitation of “A system for ... comprising: means for analyzing ...; and means for preventing a user ...; and means for allowing ...” that is of “means plus functions” as per 6th paragraph of 35 U.S.C. 112 and is not clearly defined in applicant’s original specification or claim set. However, claim 24 seems to be of the similar description as per claim 1, 12 and 23 as suggested in section 4 (Summary of the Claimed Subject Matter) of Appeal Brief Filed dated 02/21/2008. Claim 24 lacks hardware limitation, e.g. memory and processor as per claim 12. It seems to be a software per se and thus not confirming to 35 USC 101 as being a machine or a manufacture, a series of steps or acts so as to be a process or combination of two or more substances so as to be a composition of matter and fails to fall within a statutory category. Claim 24 and its dependent claim 28 are thus rejected. Since claims 24 and 28 are of similar description as of claims 23 and 27 and of software nature. Applicant is advised to cancel claims 24 and 28. For the purpose of applying art, claims 24 and 28 are read upon as claims 23 and 27.

Appropriate corrections are required.

Claim Rejections - 35 USC § 112, first paragraph

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-28 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

- a. Claims 1, 12 and 23-24 are amended to contain the limitation of "... contains sufficient inappropriate content items to exceed a known threshold of at least one predefined inappropriate content item, wherein said inappropriate content item is selected from visual items, said visual items being determined by evaluation of facial expressions to determine content items selected from the group consisting of: anger, fear disgust, sadness, surprise and intensity of expression ..." Examiner has searched the original specification and claim language and found all the references of "threshold" in lines 6-17 on page 8 and line 27 on page 9 to line 6 on page 10, and all references of "evaluation of facial expression" in lines 3-26 on page 9. However there is no description how "threshold" and "facial analysis" are combined to produce the limitation above. It is thus render the limitation not conceivable to one skilled in the art at the time of application to derive and make this limitation. Claims 1, 12 and 23-24 and their dependent claims 2-11, 13-22 and 25-28 are thus rejected. For the

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purpose of applying art, the element of “threshold” and “facial analysis” with respect to the limitation are considered separately.

Appropriate corrections are required.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 5, 6, 8-10, 12, 16, 17, 19-21 and 23-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Emens et al. (US 6493744 B1), hereinafter referred as Emens, in view of Durden et al. (US 20040250272 A1), hereinafter referred as Durden.

- a. Regarding independent claims 1, 12, 23 and 24, Emens discloses the invention substantially as claimed. Emens discloses a method for determining access to an electronic media object from one of a local or remote source, comprising: analyzing at least one of audio and image information associated with said electronic media object (Emens teaches an electronic media object is identified as an HTML document, an audio file or an image file), (see Emens, Col. 3, lines 8-23, Col. 6, lines 17-63); and preventing access to said electronic media object if said electronic media object contains sufficient inappropriate content items to exceed a known threshold (see Emens, Col. 2, lines 36-53, Col. 3, lines 64-Col. 4, lines 16, Col. 5, line 43-Col. 6, line 16, Col. 6, lines 28-63). Emens does not explicitly disclose the known threshold is of at least one predefined inappropriate content item, wherein said inappropriate content item is selected from visual items, said visual items being determined by evaluation of facial expressions to determine content items selected

- from the group consisting of: anger, fear disgust, sadness, surprise and intensity of expression; and allowing access to said electronic media object if said electronic media object contains at least one predefined appropriate content item; wherein said access is allowed at least based on recognizing at least one person included in said predefined appropriate content.
- b. However applicant has admitted as prior art (per lines 6 and 17 on page 8 and lines 3-26 on page 9 in applicant's specification) that facial expression can be analyzed and nudity can be determined based on image exceeding a predefined threshold.
- c. In the same field of endeavor, Durden discloses (e.g., system and method for controlling and managing programming content and portions thereof). Durden discloses allowing access to said electronic media object if said electronic media object contains at least one predefined appropriate content item; wherein said access is allowed at least based on in said predefined appropriate content [see Durden, section 0069].
- d. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated applicant admitted prior art of facial expression analysis, Durden's teachings of a system and method for controlling and managing programming content and portions thereof with the teachings of Emens, for the purpose of making the ratings and/or content data vary during the course of the program (see Durden, section 0008). As a person is recognizable by either voice or image recognition as specific content rating vector per Emens (abstract), Durden is shown to allow access based upon determining

- predefined appropriate content based upon content rating. By this rationale claims 1, 12, 23 and 24 are rejected.
- e. Regarding claims 5 and 16, Emens discloses further comprising the step of:
performing speech recognition on said electronic media object to determine if said electronic media object includes one or more predefined stop words (see Emens, Col. 3, lines 23-31, Col. 6, lines 17-37 and Col. 7, lines 18-25). By this rationale claims 5 and 16 are rejected.
- f. Regarding claim 6, Emens-Durden discloses further comprising the step of:
performing image processing on said electronic media object to determine if said electronic media object includes nudity (see rejection of claim 1, supra). By this rationale claim 6 is rejected.
- g. Regarding claim 8, Emens-Durden discloses further comprising the step of:
performing image processing on said electronic media object to determine said electronic media object includes sexually explicit images (see rejection of claim 6, supra). By this rationale claim 8 is rejected.
- h. Regarding claim 9, Emens-Durden discloses further comprising the step of:
performing image processing on said electronic media object electronic media object to determine if said electronic media object includes violent images (see rejection of claim 6, supra). By this rationale claim 9 is rejected.
- i. Regarding claims 10 and 21, Emens-Durden discloses wherein said electronic media object is obtained from a network connection (see Emens, Col. 8, lines 43-52). By this rationale claims 10 and 21 are rejected.

- j. Regarding claim 17, Emens-Durden discloses wherein said processor is further configured to perform image processing on said electronic media object to: determine if said electronic media object includes nudity (see rejection of claim 6, supra). By this rationale claim 17 is rejected.
- k. Regarding claim 19, Emens-Durden discloses wherein said processor is further configured to perform image processing on said electronic media object to: determine if said electronic media object includes sexually explicit images (see rejection of claim 6, supra). By this rationale claim 19 is rejected.
- l. Regarding claim 20, Emens-Durden discloses wherein said processor is further configured to: perform image processing on said electronic media object to determine if said electronic media object includes violent images (see rejection of claim 6, supra). By this rationale claim 20 is rejected.
- m. Regarding claims 25-28, Emens-Durden discloses wherein said at least person includes at least one actor who appears in regular programming (see rejection of claims 1, 12 and 23-24, supra). By this rationale claims 25-28 are rejected.

Together Emens and Durden disclosed all limitations of claims 1, 5, 6, 8-10, 12, 16, 17, 19-21 and 23-28. Claims 1, 5, 6, 8-10, 12, 16, 17, 19-21 and 23-28 are rejected under 35 U.S.C. 103(a).

- 9. Claims 2-4 and 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Emens-Durden as applied to claims 1 and 12 above, and further in view of Cragun et al. (US 5832212 A), hereinafter referred as Cragun.

- a. Regarding claims 2 and 13, Emens-Durden discloses the invention substantially as claimed. However, Emens-Durden does not explicitly disclose further comprising the step of: storing a user profile indicating the Internet browsing privileges of said user.
- b. In the same field of endeavor, Cragun discloses (e.g., censoring browser method and apparatus for internet viewing). Cragun discloses further comprising the step of storing a user profile indicating the Internet browsing privileges of said user (see Cragun, Col. 2, lines 27-34 and Col. 3, lines 58-65).
- c. Accordingly, it would have been obvious to one of ordinary skill in the networking art to have incorporated Cragun's teachings of a censoring browser method and apparatus for internet viewing with the teachings of Emens-Durden for the purpose of a more efficient and effective user control in order to selectively censor information from the Internet. By this rationale claim 2 is rejected.
- d. Regarding claims 3 and 14, Emens-Durden and Cragun discloses wherein said user profile indicates categories of content that a user said user may access (see Cragun, Col. 3, lines 62-65 and Col. 8, lines 16-39). By this rationale claim 3 is rejected.
- e. Regarding claims 4 and 15, Emens-Durden and Cragun discloses further comprising the step of: comparing said electronic media object to said Internet browsing privileges of said user (see Cragun, Col. 2, lines 29-34, Col. 3, lines 53-65 and Col. 4, lines 41-50). By this rationale claim 4 is rejected.

Together Emens, Durden and Cragun disclosed all limitations of claims 2-4 and 13-15.

Claims 2-4 and 13-15 are rejected under 35 U.S.C. 103(a).

10. Claims 7 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Emens-Durden as applied to claims 1, 6 and 12 above, and further in view of Forsyth ("Identifying nude pictures" Forsyth, D.A., Fleck, M.M.).

- a. Regarding claims 7 and 18, Emens-Durden discloses the invention substantially as claimed. However, Emens-Durden does not explicitly disclose wherein said nudity is determined by identifying human skin.
- b. In the same field of endeavor, Forsyth discloses determining nudity by identifying human skin (see Forsyth, pg. 103, Col. 2, lines 39-pg 104, Col. 1, line 1).
- c. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Forsyth's teachings of image processing with the teachings of Emens-Durden, for the purpose of controlling segmentation problems in image processing and the advantage of an effective recognition system that can work in quite general environments. By this rationale claim 7 is rejected.

Together Emens, Durden and Forsyth disclosed all limitations of claims 7 and 18. Claims 7 and 18 are rejected under 35 U.S.C. 103(a).

11. Claims 11 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Emens-Durden as applied to claims 1 and 12 above, and further in view of PR Newswire (Worldlink Announces New Product for broadcasting audio and video).

- a. Regarding claims 11 and 22, Emens-Durden discloses the invention substantially as claimed. However, Emens-Durden does not explicitly disclose said electronic media object is generated in real-time by a camera.

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- b. In the same field of endeavor, PR Newswire discloses an electronic media object generated in real-time by a camera (full text lines 5-8, 38-40, 42-45).
- c. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated PR Newswire with the invention of Emens-Durden, for the purpose of increasing public communication.

Together Emens, Durden and PR Newswire disclosed all limitations of claims 11 and 22.

Claims 11 and 22 are rejected under 35 U.S.C. 103(a).

Response to Arguments

12. Prosecution is reopened due to new grounds for rejections as per section 6 above.

Examiner's responses to applicant's arguments filed on 03/12/2007 are repeated as below per Office Action dated 05/29/2007.

- a. Applicant has stated not agreeing with claim 1, 5, 6, 8-10, 12, 16, 17, 19-21 and 23-28 rejections under 35 U.S.C. 103(a) with any specific argument. Applicant has further amended independent claims 1, 12 and 23-24 with the limitation of "contains sufficient inappropriate content items to exceed a known threshold of at least one predefined inappropriate content item, wherein said inappropriate content item is selected from visual items, said visual items being determined by evaluation of facial expressions to determine content items selected from the group consisting of: anger, fear disgust, sadness, surprise and intensity of expression" and argued that Emens and Durden fail to teach "facial expressions are evaluated to determine content items selected from the group consisting of: anger, fear disgust, sadness, surprise and intensity of expression". Examiner has reviewed the Response to Arguments in office action dated 12/08/2006 and found it is still applicable to applicant's current claim set. Examiner has further reviewed the amended claim changes in light of applicant's original specification and claim language and found that the amended claim change is not directly quoted from the original specification or claim language. The only places referring threshold is in lines 6-17 on page 8 and line 27 on page 9 to line 6 on page 10 as a prior art application. Applicant has further cited prior arts of facial analysis in lines 3-26 on page 9. Examiner has thus updated the claim rejection accordingly.

- b. It is the Examiner's position that Applicant has not submitted claims drawn to limitations, which define the operation and apparatus of Applicant's disclosed invention in manner, which distinguishes over the prior art. As it is Applicant's right to claim as broadly as possible their invention, it is also the Examiner's right to interpret the claim language as broadly as possible. It is the Examiner's position that the detailed functionality that allows for Applicant's invention to overcome the prior art used in the rejection, fails to differentiate in detail how these features are unique (see items a-d in section 8). Emens has shown the general art on filtering on content with objectionable subject matter. Emens, Durden, Cragun, Forsyth and PR Newswire have shown all the limitations of current applicant claimed invention. It is clear that Applicant must be able to submit claim language to distinguish over the prior arts used in the above rejection sections that discloses distinctive features of Applicant's claimed invention. It is suggested that Applicant compare the original specification and claim language with the cited prior art used in the rejection section above or the Remark section below to draw an amended claim set to further the prosecution.
- c. Failure for Applicant to narrow the definition/scope of the claims and supply arguments commensurate in scope with the claims implies the Applicant's intent to broaden claimed invention. Examiner interprets the claim language in a scope parallel to the Applicant in the response. Examiner reiterates the need for the Applicant to more clearly and distinctly define the claimed invention.

Remarks

13. The following pertaining arts are discovered and not used in this office action. Office reserves the right to use these arts in later actions.

- a. Liang (US 20010044818 A1) System and method for identifying and blocking pornographic and other web content on the internet
- b. Tso (US 6742047 B1) Method and apparatus for dynamically filtering network content
- c. Emens et al. (US 6295559 B1) Rating hypermedia for objectionable content
- d. Russell-Falla et al. (US 6266664 B1) Method for scanning, analyzing and rating digital information content
- e. Cirasole et al. (US 5987606 A) Method and system for content filtering information retrieved from an internet computer network
- f. Baker et al. (US 5678041 A) System and method for restricting user access rights on the internet based on rating information stored in a relational database
- g. Leung et al. (US 20020095673 A1) Apparatus and method for parental control using V-Chip plus+ and master password
- h. Herz (US 6029195 A) System for customized electronic identification of desirable objects
- i. Zhou et al. (US 20030097657 A1) Method and system for delivery of targeted programming

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Refer to the enclosed PTO-892 for details.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peling A. Shaw whose telephone number is (571) 272-7968. The examiner can normally be reached on M-F 8:00 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William C. Vaughn can be reached on (571) 272-3922. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/P. A. S./
Examiner, Art Unit 2144
/William C. Vaughn, Jr./
Supervisory Patent Examiner, Art Unit 2144

Application Number**Application/Control No.**

10/029,921

Examiner

PELING A. SHAW

**Applicant(s)/Patent under
Reexamination**

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